

claims were based upon the additional drawings that were filed, then he would rule that they do not address the elected embodiment.

The attorney observed that those claims were based upon the original text as filed as extensively explained in the Response of October 6, 2006, and that, in all events, the rules stipulated that an applicant cannot base claims on amended drawings. The attorney observed that the Applicants wanted a second ruling, based upon a reconsideration by the Examiner, of his decision not to examine Claims 53-71 as being directed to a non-elected embodiment, and the attorney indicated that if the Examiner did not provide such a second ruling, the attorney felt that the Applicants had to petition the Director.

The attorney asked whether the Applicants should be petitioning the Director before or after filing the RCE. The Examiner did not respond to this question. The attorney asked whether the first Office Action after filing the RCE would be final.

The Examiner replied that, as long as the Applicants had amended the claims which had been rejected in the final Office Action of July 14, 2006, then the first Office Action that issues after the RCE is filed would not be final.

The Applicants now request that the Examiner reconsider his position and accept that Claims 53-72 are directed to the elected embodiment associated with Figure 6. The Applicants' Response dated October 6, 2006 addresses this issue extensively on pages 3-10. A favorable ruling by the Examiner in this regard will make the filing of a petition to the Director unnecessary.

Respectfully submitted,
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Per: 

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